

Town of Framingham Planning Board Meeting December 2, 2003

In attendance are Helen Lemoine, Chairperson, Larry Marsh, Vice Chairperson, Ann Welles, Clerk, Tom Mahoney and Carol Spack.

Also present is Jay Grande, Planning Administrator and Carol Pontremoli, Administrative Assistant.

Meeting was called to order at 7:45 pm

I. Miscellaneous Administrative

The Board had a discussion regarding the upcoming calendar and Selectmen's meeting on

Thursday, December 4, 2003.

Jay mentioned to the Board he received a date for Bob Cooper, Board of Health and Joe Mikielian, Building Commissioner for January 27 at 7:35 pm to discuss wells.

Donna Jacobs is scheduled for January 27 at 8:30 pm for a zoning discussion.

Carol Spack is doing a site visit to Derby Street on Wednesday, December 3, 2003 at 9:00 am at Derby St. She is meeting with Doug Strauss and Michael Generazio. She extended an invitation for another Board Member to join her.

Helen will try to meet Carol at the site.

Helen Lemoine extended an invitation to the Board members for the MAPC Metro Futures meeting being held at MassBay Community College, Framingham Campus on Wednesday, December 3 at 7:00 pm. They are doing satellite meetings and the public is also invited. Helen will send Jay details in case anyone calls for information.

Helen asked for a list of the minutes that have been given to the Board for review. Each member will read and critique their own set of minutes so the Board can review them at the next meeting which is December 9, 2003..

II. Public Hearing

Continued Public Hearing, Modification or Rescission of Definitive Subdivision Approval, Doeskin II, 70 Carter Drive

Jay asked the Board to pull out document #2058-03 from Attorney Wagner, Associate of Town Counsel, Chris Petrini.

Jay gave an update. The Board executed the covenant extension for the Doeskin II subdivision with subsequent changes. Based on the changes to the language, Town Counsel wanted an opportunity to review the language and supply an updated copy to the

Board at next week's meeting. Jay went over all the changes which were requested from the Board at a past meeting.

On the third page: the paragraph on storm water- deals with the \$20,000 cash escrow account to be established for issues related to drainage in terms of necessary repairs or improvements. There is a provision that it can not go below \$7500. The paragraph also notes these funds will be made available to the Town to insure adequate storm water drainage measures.

The paragraph at the bottom of the page discusses problems with erosion and sediment for storm water in the future.

Town Counsel made several edits to the original covenant extension that Board has requested and the applicant has agreed to it. Jay noted there are several edits on the next page that relate to the existing and new covenant and the other item is to track the offsite improvements which are hand written comments. Jay feels this is principally a clean up.

Jay would like to note this document has taken a large amount of work and time with the applicant's attorney.

Additional references to the covenants are on the next page. There is an accelerator cause

for the performance guarantee. The Board will have the ability to request the funds to be increased. This is a substantial change that protects the Town's interest.

Paragraph 3 is tracking an earlier option for cash out option. There is some language proposed at the bottom regarding the Board finding the estimate acceptable versus leaving

it with the applicant for check and balance.

Paragraph 5 brings in the DEP Best Management Practices with respect to the erosion sedimentation control and storm water run off management. We will still retain our rights under the 81W hearing process.

Peter Barbieri wants to make clear the handwritten comments on the bottom of the page.

Peter would like the wording to be clear if they were to have the ability to get a

contractor

for less than the Town could hire that the Town would not reject the contractor as a result of this costing the Town a higher amount. If they get a valid contractor, Peter feels the town should not have the ability to ask for more money. He would like the wording to be clear as to the town's ability to question the cost.

On the next page there is specific language on the Board's consultant to look at existing conditions and making an immediate assessment.

Helen asked if the Board has questions that Jay could relay to Town Counsel.

Carol Spack asked to go to page one the last whereas sentence - she would like to revise

the sentence to make it more accurate. She would like to replace the word “supplement” with “amend”. In the whereas clause above it, she would like to clarify what “plan” is noted. Carol has noted paragraph two on page two – she would like to add the 81W hearing as well as the covenant.

Jay doesn’t feel it necessary. In Paragraph 5, she would like to substitute the word “effective” in place of “proper”. She would like Town Counsel to review the wording “the site”. Also in that paragraph, she posed the question did they limit the scope of this agreement to lots 8 & 9 or did the Board add lot 10?

Ann disagrees and feels the language as written gives the independent consultant not to be required to give an instant opinion and if he desires a delay the consultant should have the means to get it.

Jay is concerned the consultant would be caught in a position because the contract wasn’t executed or being enforced.

Larry asked about the consultant going on the abutter’s property.

There was a discussion among Carol, Tom and Larry regarding the options for having the consultant going on the abutter’s property. Jay explained that the abutters, given enough notice, would not mind the consultant on their property.

Helen asked Jay to pass the comments along to Town Counsel.

Carol has another question regarding paragraph 6. She feels lot 10 should be added to the sentence noting lots 8 & 9.

Sue Bernstein, paragraph starting with regardless in the third sentence references storm water runoff . Is it sufficient to say that or can words be added to specifically say run off on to abutter’s property.

Kathy Vassar, Precinct 1, has concerns relative to lot 10, she has found a map that shows a stream coming down from Doeskin that may have shifted. She brought the map and asked Jay to make copies. Ann noted that lot 10 is part of the 81W.

Don Beers, 48 Carter Drive feels this document has just been given and he would need time to have his attorney look it over. Jay explained this covenant will be executed next week and is not a review. This is an administrative item and not necessarily a public hearing.

Helen asked Attorney Barbieri and Chris Kotsiopoulos if they are aware, they will need to have the money transferred. Chris Kotsiopoulos will be away from December 15 to the end of the month. Helen will be away for two weeks in February.

The public hearing will be continued until January 20, 2004 at 7:45 pm.

Continued Public Hearing for Special Permit for Mixed Use Development, Kendall Building 79-80 Concord Street

In attendance are Paul Galvani, Attorney, and Joel Irving on behalf of the owner/builder. Helen asked that Documents #2028, 2030, 2056, 2059, 2060, and 2062 be pulled.

Helen asked Jay to give an update. Jay noted they received revised plans which include façade changes. He would also like to look at onsite parking. The Board has concentrated on the number of spaces needed in the past. The other item is to update the Board on ADA.

Paul Galvani noted they have to abide by all the applicable ADA regulations. Paul also noted they had to put on an exterior addition.

Jay asked if there was an off-site rendering of the parking. Paul Galvani noted the Board has received plans and they have not changed. The plan is to remove the jersey barriers and replace them with planters. Joel noted the elevations are being drawn up currently but they have prepared a supplemental description of construction and materials which is being distributed tonight to the Board. They will remove the split material and will remove it around the cornices. Also around the cornices there is brick which will be cleaned up. They will construct new windows and façade for the store front. They will stay with the green and gold color. They will meet with Joel to establish signage that keeps in character with the building and also meets with the Town's laws.

Kathie McCarthy, Precinct 10 -asked about accessibility, she noted they were told there would be a meeting but nothing has been submitted. She noted they were promised documentation but she did not receive anything. Helen suggested that Kathie meet after the meeting to discuss it with the applicant.

Ann would like to commend them on this project. She would like to thank the developer for staying within the historical character of the building and thinks the façade is very exciting.

Helen asked all to review document #2059 written by Donna Jacobs.

Kathy Bartolini, Director of Planning and Economic Development. She met with the Developer and Town Manager. They agreed to a \$1000 retainer fee for up to 40 spaces in the garage on a yearly basis until the Developer could procure other parking arrangements. The \$1000 retainer would be renewed on a yearly basis.

Larry asked Kathy to comment on the mitigation part of her letter. She understood the Board and the Developer have come to a percentage of 1.5%. There is period lighting being installed to downtown and she would like to see mitigation to continue with that and also include handicapped access where necessary.

Larry supports the mitigation but is not clear as to what will come out of the traffic study. He asked how this will effect the downtown project and how will it be paid for. Jay responded the signals downtown on Howard St has just been complete. The signal equipment price is about \$35,000. Kathy noted the traffic back up for Memorial Square

is due to the timing. They are in the process of trying to correct this. Jay also noted there is no traffic study. Kathy Bartolini is speaking of improvement to the street scapes. Tom Mahoney thinks the Osco was reissued due to the Arcade Project.

Bob DeShaw, Precinct 14 would like the mitigation money to go towards the lighting. He would like to see some of the money to go to sidewalks around Grant Street.

Carol Spack would like to suggest some money be spent on bus shelters for patrons of the Lift Bus. Kathy Bartolini would like to see a bus shelter of a period piece for the Common.

Jay noted the approximate value of the improvements was \$1 million dollars. Joel Irving felt that the \$1 million dollars was a reasonable amount. He feels that cost of the façade should be considered in the \$1 mm noting that the cost of the façade plus the \$1mm is too much.

Joel thought the parking percentage of 1.5 plus the extra fees is too much. Jay feels due to the items being asked of the Town with various lease agreements are extra and should be considered. Helen feels that Mr. Irving's feeling should be noted and the façade improvements offered should be considered in the mitigation. She also notes that Mr. Irving will need to put together a mitigation proposal together for the Board to look at and decide. Larry asked what the cost of the façade will be? Mr. Irving quoted \$250,000. Kathy Bartolini talked about the cost of the lighting in the downtown area.

Joel feels it is not up to him to determine how the mitigation money will be used.

Kathy Bartolini said the bus shelter costs about \$5000. The streetlights will be about \$3000. Kathy noted the cost was driven up to do a complete electrical plan for an update. Everyplace they go on Concord Street they have been running into wiring problems. Carol would like to place a bus shelter where there is none now so people will use the Lift Bus.

Kathie McCarthy, Precinct 10, asked about the space from parking to the housing. Can some mitigation money for lighting be used for this area. Helen remembered 860 feet going along public streets.

Bob DeShawn Precinct 14 would like to make the two downtown bus stops the same.

Paul Galvani remembered he proposed 2.5 and then decreased it to 1.5. Joel feels strongly that to require another 2% for mitigation to be harmful to the project. Paul noted that Joel will give some additional money in the amount of \$18,750 and feels this to be a fair and reasonable amount and this could be added into the decision.

Tom asked if they were planning any streetscape renovation in front of the building. Joel noted the clock will be fixed and maintained by them. Helen noted the mechanism for the clock is located in the basement of the building.

Sue Bernstein suggests the Board get a realistic cost of the building – she feels that \$1mm is too low.

Joel noted that he is losing \$30,000 a month waiting for this project. He will have to lay off his workers starting on Friday.

Helen asked if the Board would accept this agreement and move forward on the \$18,750 subject to the building commissioner. The Board agreed and Helen suggested this to be done and then given to the Building Inspector for review.

Helen asked Jay to go through the decision document. Jay commented that the project is 25 units, and assumes the sewage flows are about the same even with the residential units. He would like to see some accounting for the sewage. Paul noted the correspondence from Public Works where it states they have to comply and replace any pipes necessary. He feels this falls under the DPW and Building Inspector. Larry suggests that on the usage of the residential units components versus the commercial space should be a wash but he feels the applicant could be able to get some figures fairly easily to submit to the Board.

Phil Chounard, Development Partner needs to scope the drainage and sewer per the request of the DPW.

Paul noted six details requested by the DPW which are noted on the revised plans.

Paul notes in the decision, he is uncomfortable with Jay's language requiring a lease on the parking spaces. Kathy Bartolini said the letter filed with the applicant said upon their approval they would enter into an agreement. There would also be a retainer of \$1000 per month for 40 spaces. If they enter into an agreement for parking, there would also be a letter stating that information. Larry feels there should be an agreement in affect also before they get a permit to meet the criteria of the by-law. He feels this should be run past Town Counsel.

This was continued to December 16, 2003 at 10:00 pm

Discussion on Dunkin Donuts, 1670 Worcester Road

Present is Paul Galvani, Attorney, Barbar Khan, P.E., Herbert Serper represents Scrivanos Group . They have a lease for property located next to Motel 6, the current Athenian Restaurant. This would require a special permit and demolition of the existing building and construction of a Dunkin Donuts.

Mr. Khan is the Director of the engineering group and gave an overview of the project. They currently own 85 Dunkin Donuts some Papa Johns and Baskin Robbins. The Athenian Restaurant has 45 parking places and some common passage ways with Motel 6. They have two egresses from and to Route 9. The property does not currently meet

the zoning codes. The ADA issue is the building sits up high and they were not sure if they could be the ADA compliant. They also do not have access for a drive up window.

They are proposing a 2700 square foot Dunkin Donuts with 30 parking spaces with seating capacity to 26 seats and 6 employees. As customer's come in the driveway they will have signage for the drive up window. The set up would allow 11 cars in the queue. They will keep the same ingress/egress. Mr. Khan presented a conceptual drawing showing the counter, kitchen, bathroom facilities, seating, and office for manager along with storage.

They are proposing a more colonial style building. There will be a fenced rooftop area to hide any rooftop equipment. He presented a color picture of their store in Amesbury. They are also proposing extensive landscaping. They do not meet the 10 foot strip.

Carol Spack would request they would be a neighbor to Motel 6 and the buffer is slim and would be concerned with the queue idling outside motel windows. Carol asked if there is pedestrian access from Motel 6? She also wanted to know if there would be any outdoor seating in excess parking area. A clock would be architectural addition. Tom likes the colonial style and feels this is good. He would like not to see the idling cars on the front of this building. It will look great from the Park & Ride. He would like to see the building turned 90 degrees. Paul explained there is a caveat with regards to an easement.

Herb noted they would have an agreement with the motel to use 14 of the back parking spaces after 10:00 pm and before 6:00 am. The Board would like to see a parking agreement.

Larry asked for the locus of the area. He agrees with Tom and likes the project. Helen feels the pedestrian access to cross Route 9 needs to be discussed.

Ann agrees with Tom and traveling traffic has a beautiful view but the buildings across the street would not be as nice. She does not like the brick. Maybe some more landscaping.

Carol noted usable green space would work with this arrangement. Tom feels the people will utilize California Avenue and go into the Park & Ride to get to the Dunkin Donuts. Larry asked for a point of reference how many parking spaces for Dunkin Donuts further down Route 9. Helen is not concerned with looking out over route 9 and likes the project. The green space would be a nice touch.

Sue Bernstein noted the cross road leading to the Boston Properties. People will go through the parking lots and feels it is important for Jay to get the Boston Properties plan. She also noted the state said No pedestrian walkways.

Carol Spack wondered if the imagery of the diner did not fit with the Dunkin Donuts concept to use in place of knocking down the current building. Barbar noted there are a lot of problems with the building, low ceilings and they will not be able to utilize the

space for the customers to feel comfortable. Ann asked if the building is over 50 years old. Barbar said it was built in 1960's She asked if the existing telephone poles were slated to be removed.

Herb wanted to know about twisting the building around to improve the appearance of the building. If they did something with the landscaping berm in the front blocking Route 9 would the Board like this concept? Ann, Larry and Helen agree with the concept that Herb is proposing.

Tom feels this would make it a more attractive building.

Helen asked what they had in mind for a time frame. Paul would like to go to the Zoning Board for a special permit first and then the Planning Board.
Helen noted Kudos to them for this project and they have a good location.

Larry made a motion to adjourn

Ann Seconded

Voted 5 approve 0 oppose

Meeting Adjourned at 11:30 pm

Respectfully submitted,

Carol A. Pontremoli
Recording Secretary

****THESE MINUTES WERE APPROVED WITH AMENDMENTS AT
THE PLANNING BOARD MEETING OF JUNE 15,2004.**

Thomas Mahoney, Chairman